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July 30, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. Alvin McCloud
Federal Communications Commission
Common Carrier Bureau
Network Services Division
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Washington, D.C. 20554

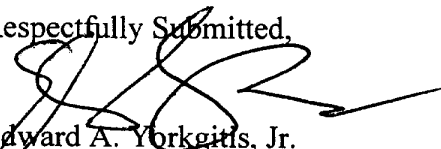
**Re: In the Matter of Numbering Resource Optimization
CC Docket No. 99-200**

To the Commission:

Pursuant to the June 2, 1999, Notice of Proposed Rulemaking in the above-referenced matter, enclosed please find a diskette copy of Liberty Telecom LLC's Comments filed this date in WordPerfect 5.1 format.

Please call me if you have any questions.

Respectfully Submitted,


Edward A. Yorkgits, Jr.
Attorney for Liberty Telecom LLC

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Encl.

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Connecticut Department of Public Utility Control)	RM No. 9258
Petition for Rulemaking to Amend the Commission's)	
Rule Prohibiting Technology-Specific or)	
Service-Specific Area Code Overlays)	
)	
Massachusetts Department of Telecommunications)	NSD File No. L-99-17
and Energy Petition for Waiver to Implement a)	
Technology-Specific Overlay in the)	
508, 617, 781 and 978 Area Codes)	
)	
California Public Utilities Commission and the People)	NSD File No. L-99-36
of the State of California Petition for Waiver to)	
Implement a Technology-Specific or Service-Specific)	
Area Code)	

COMMENTS OF LIBERTY TELECOM LLC

Liberty Telecom LLC ("Liberty"), by its attorneys, hereby files these comments in response to the FCC's above-captioned Notice of Proposed Rulemaking. Liberty applauds the FCC for addressing the pressing issues surrounding efficient utilization of numbering resources.¹ Liberty urges the FCC to use this opportunity to provide concrete guidance to the States regarding area code relief and code conservation to the extent the FCC delegates its authority over numbering administration. *See* 47 U.S.C. § 251(e). The Commission should exercise care to ensure that telecommunications carriers continue to have access to full NXX codes where justified. Number pooling and other conservation

¹ FCC 99-122 (released June 2, 1999) ("Notice").

methods involving partial codes should be used judiciously as an adjunct to the existing code assignment system, rather than as a replacement for it.

Liberty is an authorized CLEC authorized to provide local and access services in the State of Nevada. Liberty's interconnection agreement with Nevada Bell was approved on July 28, 1999. Liberty will turn up its first switch in the next two months and is developing plans to introduce service in additional states over the next twelve months. As a CLEC, Liberty is vitally interested in the outcome of this proceeding.

With the proliferation of area code relief proceedings in the past few years, it is clear that numbering resources are at a premium. Indeed, for some new CLECs, it has been difficult to find adequate numbering resources for initial codes. The explosive demand for numbers reflects the traditional and novel ways that telecommunications, and enhanced services that depend on underlying telecommunications, are becoming ever more central facets of business practices and the daily lives of our citizens. Residential consumers are demanding two, three, or more numbers to support telecommunications, Internet access, and other innovative value-added services. The actions the FCC takes in this proceeding should support the growth of competition in all telecommunications and information service markets. Consumers of telecommunications, including those that use the telecommunications services to provide value added or enhanced services, should be free to choose their carriers based upon the service and pricing a carrier offers, not whether the carrier currently has sufficient telephone numbers. New CLECs in particular, such as Liberty, must have access to adequate numbers to meet the demands of customers for their services in order to succeed in an increasingly competitive marketplace.

Liberty supports the FCC's general objectives in this proceeding. (*See Notice* at 5). As discussed in more detail below, high number utilization must be encouraged by constraining the ability of carriers to obtain and maintain excessive number inventories for which they have no need within a reasonable time horizon. Appropriate procedures for obtaining growth codes, as well as effective reclamation of NXX codes that are not activated in a timely fashion, are probably the most cost effective methods of number conservation, and they should be strongly favored.

Impact on customers from number administration should be minimal. Regulators should recognize that ten-digit calling is inevitable and current efforts by some State commissions to forestall it indefinitely are ultimately doomed to fail. Moreover, such efforts contribute to inefficient demands for area code relief. Liberty acknowledges that the transition to ten-digit dialing may be temporarily disruptive. But the most important issue for consumers is not how many digits they have to dial to place a call, but ensuring that administration of numbering resources does not, even inadvertently, unduly favor or disfavor any class of carrier, service, or customer.

Liberty favors rate center consolidation as a critical and cost-effective way to conserve numbering resources and ensure the availability of NXX codes for all LECs. (*Accord Notice* at 52-53.) Specific rate center consolidation decisions should be left to the States, but the FCC can and should take steps to encourage consolidation, as well as the separation of call rating and call routing. For example, the FCC should tie the delegation of authority to a State to use other conservation methods, such as pooling or thousand block givebacks, to the State's implementation of consolidation in metropolitan areas. (*See Notice* ¶ 120). This is especially the case given many States' current desire to

implement pooling *prior* to having FCC authority to do so. Without the proper incentives, many States may not consider consolidation in the short run.

In addition to rate center consolidation, Liberty supports stricter use of utilization measures as a means of assigning growth codes. To obtain growth codes in any given rate center, carriers should have to make showing of current utilization combined with projected need. A simple Months-to-Exhaust showing has proven inadequate to stem hoarding of codes. A carrier's current utilization should weigh heavily in this calculation, and national guidelines and utilization levels should be established.² But an adequately supported showing of projected need should, in specific circumstances, allow the carrier to obtain a growth code where the current utilization is not at a level that matches the thresholds.³ To ensure that abuses do not occur on the basis of unjustified future projections, once growth NXX codes are assigned to a carrier, that carrier should be subject to strict reclamation policies.

Code reclamation should assume a more central place in the conservation and administration of numbering resources. Liberty believes that audits have a proper

² Liberty supports the calculation of utilization on an NPA level, albeit States should have the flexibility to lower those levels (or calculate levels on a sub-NPA basis) depending on state-specific circumstances. In addition, the percentage of utilization that qualifies a carrier for an additional code should increase as a function of the number of codes already assigned to that carrier increases. *See Notice* at 31. Otherwise carriers that maintaining significant numbers of codes would be able to obtain new NXX codes while having significant volumes of unused numbers, potentially precluding new entrants from adequate numbers.

³ Pursuant to FCC prescribed levels, for example, where a carrier may be under the utilization threshold level to justify a request for a new code, but the carrier has had a marked increase in recent growth prior to requesting growth codes, the code administrator should be free to factor in the recent growth in making a decision. This is especially the case given the inevitable 66-day-plus lag between code assignment and code activation.

complementary role in this effort. However, Liberty is also concerned that audits be used in an even-handed and competitively neutral manner. While “for cause” audits should be available to the administrator in extraordinary circumstances, new carriers should not be more likely to undergo an audit than other carriers simply because they have a high demand for numbers. Accordingly, Liberty supports utilization reporting every six months and audits for all carriers every three years. If the FCC determines that random audits are more appropriate, no carrier should undergo more than one audit in any three-year period, absent a showing for cause in extraordinary circumstances.

In the *Notice*, the Commission inquires whether carriers that achieve certain levels of number utilization within a given area should be permitted to choose the optimization methods most suited to them. Liberty supports this proposal strongly. As a new carrier, Liberty has to direct its resources to implementing its business plan and interconnection agreements with incumbent and other competitive LECs. The FCC’s proposal to offer flexibility to carriers with high utilization rates would avoid more intrusive or burdensome regulatory mandates on carriers already making efficient use of numbering resources. As noted above, Liberty submits that utilization rates for determining which carriers are entitled to this flexibility should be based on NPA-wide statistics. However, pursuant to national guidelines, States should be permitted to *lower* the utilization rate where appropriate in NPAs. States should also be free to measure utilization over sub-NPA areas to reflect geographic differences, for example between urban and rural areas.

Where number pooling is implemented by a State, it should be done as an complement to the assignment of full NXX codes. Full codes should continue to be available, upon proper showing of utilization and projected need, for all carriers, even

where number pooling is implemented. Full codes should be available as initial *and* growth codes. By conditioning number pooling authority on the implementation of rate center consolidation, at least in metropolitan areas, the FCC will take a significant step toward ensuring the availability of full codes.⁴

Finally, Liberty opposes any general requirement to pay for numbering resources. Liberty believes that such a measure is not necessary if the code conservation measures discussed above are implemented. At most, such payments should be used to augment other optimization methods. For example, in certain circumstances where a carrier is hoarding numbers and is repeatedly subject to code reclamation within a certain time frame, payments could be used to supplement the effectiveness of the assignment and reclamation procedures.

⁴ Liberty is not opposed to requirements that there be sequential number assignment within NXX codes to permit reclamation of thousand number blocks, when appropriate. Provision could be made to allow carriers to meet specific customer demands, but such exceptions should not swallow the rule. *See Notice*, at 83.

CONCLUSION

For the foregoing reasons, Liberty supports the efforts of the Commission to adopt national policies and rules regarding number resource utilization. Any additional authority delegated to the States should be tied to implementation of cost effective, competitively neutral, and not unduly burdensome conservation methods, such as rate center consolidation. At bottom, carriers with high utilization rates should continue to be able to get full NXX codes. This is critical to ensure that numbering policies do not unduly favor or disfavor any class of carriers, services, or customers.

Respectfully submitted,

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30 July 1999

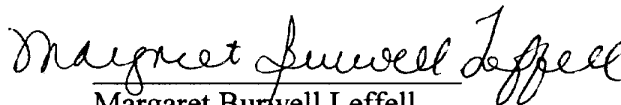
CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of July, 1999, diskette copies (formatted in WordPerfect 5.1) of the foregoing Comments of Liberty Telecom LLC were served, via hand delivery, to:

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